

## EXHIBIT K

Federal Court of Canada  
Trial Division



Section de première instance de  
la Cour fédérale du Canada

Deputy Administrator  
Sous-administrateur  
FILED  
1999-11-02  
Produit  
Designated Proceedings  
Procédures Désignées

Date: 19991102

Docket: DES-6-99

BETWEEN:

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Applicant

- and -

MAHMOUD JABALLAH

Respondent

REASONS FOR ORDER

CULLEN, J.:

[1] To summarize legislation is in all likelihood unnecessary in that the sections clearly spell out the process, but, so there can be no doubt, I have decided once again as I have done in other hearings, to quote directly from the *Immigration Act*, as this is the basis for the two Ministers' decision giving them the authority to issue a certificate under section 40.(1).

taking them to Saudi Arabia and told a few lies about that situation. But I think, in the circumstances, anyone would have been tempted to mislead the captain so that he could get to Saudi Arabia and not be returned to Egypt.

[17] Incidentally, the visa was a temporary one and required returning to Egypt after a particular period of time. He then tells us, rather than be caught up in being forced out of the country, because it had been requested by Egypt of Saudi Arabia, or at least there was a strong feeling on his part that he would be moved out of Saudi Arabia once the visa had expired, he made plans to move once again.

[18] From Saudi Arabia his evidence is that he made his way to Pakistan because of the fear he had already expressed in his evidence. He recognized that he would have to be looking for work if he was to sustain himself and his family. He indicates that someone at a mosque put him in touch with an organization next to the mosque calling itself the Islamic Assistance Organization of the Saudi Arabian Government which he described as an organization formed to help people in the countries outside Saudi Arabia in dire need through economic or natural catastrophe: "they are looking after orphans and teaching orphans". Subsequently he was asked the question if this organization was associated with the International Islamic Relief Organization and he confirmed that it was.

[19] With a few problems outlined for us by the interpreter they had one more stab at getting it correct and this time referred to it as “Islamic Relief Organization of the Saudi Arabian Government”. I don’t think there is anything to be commented on here; there was just an honest mistake in translation and the translator herself indicated that this was in fact the case.

[20] The respondent’s position is that he was in need of assistance which he understood would be provided by this particular organization. The information the respondent had was to the effect that this organization was involved in teaching which was of interest to him because if he were going to work it would have to be as a teacher. According to the respondent the organization was a multi-discipline type operation and in addition to the interest in providing teaching they also looked after orphans, and that this was an organization looking after all people, not only outside Saudi Arabia but in Bangladesh or any other place in the world. The respondent also made the point that he never heard about the organization when he was in Egypt and he indicated that he approached this organization on August 1, 1991. The respondent states at p. 21, Vol. 2:

Q. Could you tell us what happened when you approached the organization in Mecca?

A. I contacted the organization. I gave them some of my certificates, my graduation diplomas, and I told them, “If you have any teaching branches in any country, I am willing to work there”. They gave me some time, almost one month, and they told me, “We have a branch in Pakistan that teaches orphans.” They teach academic and religious subjects. Within the academic subjects there was a biology course. They interviewed me to find out my qualifications. Some high professional professors looked at my qualifications and experience documents in teaching. Accordingly, after this interview, I was successful, and they nominated me to go to Pakistan.

I travelled to Pakistan in the tenth month, in October 1991

.Later the respondent confirmed that he was hired and that he received a salary and that the money was coming from the organization, although the organization received 70 percent of its budget from the government of Saudi Arabia.

[21] The respondent considered himself in the country legally and he had used his name Mahmoud Jaballah.

[22] The respondent tells us that what was uppermost in his mind is the fact that the government gave him a visa to work in Saudi Arabia but when the visa expired he had to go back to Egypt. He recognized that the Saudi Arabian government would recognize their responsibility to return him. We heard the following exchange between the respondent and his counsel (p. 23, Vol. 2):

Q. You indicated earlier that the International Islamic Relief Organization assists various needy people. What motivated you to want to work with this organization?

A. I wanted to work teaching in the teaching profession anyway, and because the International Relief Organization was an organization that they would pay my salary and I would be helpful in teaching orphans.

Q. Did you teach orphans while you were in Pakistan?

A. Yes. All the time that I taught in Pakistan I was teaching orphans.

Page: 14

[23] The respondent's evidence offers up a forceful denial of knowing about or having any association with Ossama Bin Laden. Jaballah indicated that he had worked at the International Islamic Relief (IIRO) as a teacher while in Pakistan.

[24] The footnote no. 7 at p. 60 of the respondent's Motion Record was read to the respondent:

According to JABALLAH's statement to CIC, he worked as a teacher at the International Islamic Relief Organization (IIRO). Reference B4 p.3. This organization is suspected to be linked to Ossama Bin Laden and involved in fraudulent activities

After reading the footnote counsel asked the following questions (p.24, Vol. 2 of the transcript):

Q. Mr. Jaballah, when you approached the Relief Organization in Saudi Arabia, did you know that it was linked to Ossama Bin Laden?

A. No.

Q. While working as a teacher in Pakistan with this organization, did you ever come to know that this organization had links to Ossama?

A. No.

Q. While working as a teacher with the International Islamic Relief Organization, did you ever see or speak to Ossama Bin Laden?

A. No.

Q. Did you ever hear the name being mentioned during the course of the years you were there?

Page: 15

A. No.

Q. When you initially approached the International Islamic Relief Organization in Saudi Arabia, had you ever heard the name Ossama Bin Laden before?

A. No.

Q. When in fact, did you first hear the name Ossama Bin Laden?

A. The first time I heard the name of Ossama Bin Laden was when the embassies in Tanzania and Kenya were blown up.

Q. In what context? How did you come across the name?

A. Because the whole world was accusing Ossama Bin Laden that he was the one behind blowing the embassies. I heard and read about the name in the newspapers.

Q. Was that the first time you came across the name?

A. Yes.

If the respondent is deemed to be credible the answers to these questions are a strong denial of his having any knowledge about Ossama Bin Laden. I am of course required to examine the evidence presented in open court and that produced at the *in camera* session.

[25] The respondent indicated that he never had any suspicions or any knowledge during the years that he was with the organization that they were engaged in any fraudulent activities. He indicates that the organization has a chapter in Canada too and its Director is Doctor Arafat El-Asahi. He makes the point, through questioning from counsel, that:

Page: 16

Q. To your knowledge, is the chapter operating legally in Canada?

A. Yes, they are legal.

[26] The respondent makes another strong statement, admittedly under examination-in-chief (p. 27, line 13, Vol. 2 of transcript):

Q. If we can assume for a moment that, in fact, Bin Laden is a terrorist and he has links to the International Islamic Relief Organization, if this was in fact the case and you were aware of it, would you have joined the organization when you did in 1991?

A. Of course not.

Q. Why not?

A. If this gentleman was belonging or affiliated with this organization and if it is proved that this gentleman was a terrorist and he was violent, of course these kinds of activities are not legal activities, because he kills innocent people, of course I would not participate in such activities.

Once again we have a hypothetical question to which the respondent gives a fairly forceful response.

[27] The respondent indicated that he had worked in a Saudi School and that it was affiliated with the Saudi embassy in Pakistan. "I was getting paid by the Embassy" and he was paid because he taught biology from about 1993 to 1994, approximately nine months.

[28] The respondent also makes the point that he was paid by the Saudi Arabian government in Pakistan and used his name Mahmoud Jaballah. While he was in Pakistan